



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/461,336

12/15/1999

DAZHI CHEN

23632-002

3675

909 7590 01/26/2007
PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

EXAMINER

SHEIKH, ASFAND M

ART UNIT

PAPER NUMBER

3627

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
--	-----------	---------------

3 MONTHS

01/26/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/461,336	CHEN ET AL.	
	Examiner	Art Unit	
	Asfand M. Sheikh	3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any, earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-153 is/are pending in the application.
- 4a) Of the above claim(s) 1-132 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 133-153 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3627

DETAILED ACTION

Election/Restrictions

In the response filed on 30-Jan-06, Applicant has provisionally elected with traverse, claims 133-153 for prosecution. Claims 1-132 are withdrawn from prosecution.

Response to Rule 105 Communication

The examiner thanks the applicant for the submission of the Rule 105 Communication.

Acknowledgements

Please take note that the examiner that is examining this application has changed. The new examiner is Asfand M. Sheikh. Please note that the group art unit has not changed.

With respect to claims 133-153, new grounds of rejection have been established.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 133-153 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 133, The examiner notes the claim recites "a listing of the at least one discounted gift certificate... enabling a user to purchase the at least one discounted certificate by at least one of: participating in an auction for the at least one discounted gift certificate and being a winning bidder and via an immediate buy option at a fixed discounted price without bidding..." The examiner is confused with regards to "at least of:..." options to purchase. Does the applicant mean that there is an option between being a winning bidder or an immediate buy option as the two means to purchase the certificate? For examination purposes the examiner will examine the case with the broadest reasonable interpretation (e.g. a

Art Unit: 3627

choice between being a winning bidder or an immediate buy now option).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 133, 136-140, 145, and 146 are rejected under 35 U.S.C. 103(a), as best understood, as being unpatentable over Mossberg United States Patent 5,803,500 in view of Godin et al. United States Patent 6,255,652 (hereinafter Godin) and Leonard et al. United States Patent 5,903,874 (hereinafter Leonard).

As per claim 133, Mossberg discloses a method enabling the conducting of a silent auction (Mossberg, see at least, col. 3, lines 44-47) and that the auction could be conducted for profit (Mossberg, see at least, col. 3, lines 49-54). Further Mossberg discloses an auction item which may include a certificate

Art Unit: 3627

entitling the bearer to specific goods or services (Mossberg, see at least, col. 3, lines 57-61).

The examiner notes that Mossberg is silent with respect to a web-site comprising an online auction with an immediate buy option at a fixed discounted price for obtaining certificate immediately and a gift certificate that obtains a discount from the predetermined price during non-peak demand periods and non-users pay the predetermined price without the discount during non-peak demand periods.

Godin discloses a website that auctions at least one item at with an immediate buy option at a given fixed price, for a given period of time, without bidding (Godin, see at least, col. 2, lines 45-67; Examiner notes that continuity updating price is dependent for time remaining in the auction, but it is fixed for a given amount of time).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Mossberg to include a website that auctions at least one item at with an immediate buy option at a given fixed price, for a given period of time, without bidding as taught by Godin. One of ordinary skill in the art would have been motivated to modify the references in order to provide the excitement or the real time

Art Unit: 3627

dynamic feedback of a traction auction (Godin, see at least, col. 1, lines 53-55).

Leonard discloses a coupon that provides a discount from a predetermined price during non-peak hours (Leonard, see col. 5, lines 47-60; Examiner interprets a coupon to be analogous to a certificate).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Mossberg to include a coupon that provides a discount from a predetermined price during non-peak hours as taught by Leonard. One of ordinary skill in the art would have been motivated to modify the references in order to provide an incentive for customers to utilize a service during off-peak hours.

As per claim 136, The examiner notes that Mossberg is silent with respect to wherein the web site includes an auction display feature, the auction display comprising one or more of a name of the restaurant, a description of the at least one discounted gift certificate, including a period of validity and a value, any minimum bid requirement, and a status of the auction, including a current bid and time left for bidding.

Art Unit: 3627

Godin discloses wherein the web site includes an auction display feature including a current bid and time left for bidding on an item (Godin, see at least, col. 2, lines 45-67; FIG. 10).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Mossberg to include wherein the web site includes an auction display feature including a current bid and time left for bidding as taught by Godin. The motivation to combine is the same as claim 133, above.

As per claim 137, The examiner notes that Mossberg is silent with respect to wherein the web site includes a certificate display feature, the display comprising one or more of a restaurant name, a description of the at least one discounted gift certificate, a status of any auction for the gift certificate, and if an immediate buy option is available for the at least one discounted gift certificate, an indication that the immediate buy option is available and a fixed discounted price for the immediate buy.

Godin discloses wherein the web site includes an item display feature, the display comprising an indication that the

Art Unit: 3627

immediate buy option is available and a fixed discounted price for the immediate buy (Godin, see at least, col. 2, lines 45-67; FIG. 10).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Mossberg to include wherein the web site includes an item display feature, the display comprising an indication that the immediate buy option is available and a fixed discounted price for the immediate buy as taught by Godin. The motivation to combine is the same as claim 133, above.

As per claim 138, The examiner notes that Mossberg is silent with respect to wherein the web site includes an auction display feature, the auction display comprising a restaurant name, a description of the at least one discounted gift certificate, including a period of validity and a value, any minimum bid requirement, and a status of the auction, including a current bid and time left for bidding.

Godin discloses an auction display feature comprising the name of the entity providing the auction, a description of the item being auction, status of the auction, and including a

Art Unit: 3627

current bid and time left for bidding (Godin, see at least, FIG. 10).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Mossberg to include the features of the restaurant to an auction display feature comprising the name of the entity providing the auction, a description of the item being auction, status of the auction, and including a current bid and time left for bidding as taught by Godin. The motivation to combine is the same as claim 133, above.

The combination of Mossberg and Godin fails to explicitly disclose a description of the period of validity and value of the gift certificate.

Leonard discloses a description of the period of validity and value of the coupon (Leonard, see at least, Abstract and col. 5, lines 47-60; Examiner notes a promotion would contain the value).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Mossberg and Godin to include a description of the period of validity and value of the gift certificate as taught by Leonard. One of

Art Unit: 3627

ordinary skill in the art would have been motivated to modify the references in order to provide an incentive for customers to utilize a service during off-peak hours.

As per claim 139, the examiner notes the limitation of claim 139 is substantially similar to that of claim 138, and thus is rejected under similar grounds. Further the examiner notes Godin discloses an entity can offer multiple items for auction (Godin, see at least, FIG. 10).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Mossberg to include an entity can offer multiple items for auction as taught by Godin. The motivation to combine is the same as claim 133, above.

As per claim 140, the examiner notes the limitation of claim 140 is substantially similar to that of claim 139, and thus is rejected under similar grounds.

As per claim 145, The examiner notes that Mossberg is silent with respect to the user must register with the website prior to bidding on or purchasing a gift certificate.

Art Unit: 3627

Godin discloses user must register with the website prior to bidding on or purchasing an item (Godin, see at least, col. 4, lines 45-56).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Mossberg to include user must register with the website prior to bidding on or purchasing an item as taught by Godin. The motivation to combine is the same as claim 133, above.

As per claim 146, the examiner notes the limitation of claim 146 is substantially similar to that of claim 145, and thus is rejected under similar grounds. Further the examiner notes Godin discloses providing identification information (Godin, see at least, col. 4, lines 45-56).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Mossberg to include providing identification information as taught by Godin. The motivation to combine is the same as claim 133, above.

Art Unit: 3627

5. Claims 134 and 141-144 rejected under 35 U.S.C. 103(a) as being unpatentable over Mossberg United States Patent 5,803,500 in view of Godin et al. United States Patent 6,255,652 (hereinafter Godin) and Leonard et al. United States Patent 5,903,874 (hereinafter Leonard) as applied to claim 133 above, and further in view of Barzilai United States Patent 6,012,045.

As per claim 134, the combination of Mossberg, Godin, and Leonard is silent with respect to a minimum bid price for an auction.

Barzilai discloses a minimum bid price for an auction (Barzilai, see at least, col. 11, lines 57-67 and col. 12, lines 1-10).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Mossberg, Godin, and Leonard to include a minimum bid price for an auction as taught by Barzilai. One of ordinary skill in the art would have been motivated to modify the references in order to provide entertainment to actual and potential customers in the form of an auction (Barzilai, see at least, col. 2, lines 17-18).

As per claim 141, the examiner notes the limitation of claim 141 is substantially similar to that of claim 138, and thus is rejected under similar grounds. However, the examiner notes that the combination of Mossberg, Godin, and Leonard teach the limitations of the invention however the combination is silent with respect to wherein more than one restaurant can offer gift certificates for auction.

Barzilai discloses wherein more than one individual can auction off items (Barzilai, see at least, col. 1, lines 52-58; the examiner interprets "operated by customers" to mean more than one individual auctioning items).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Mossberg, Godin, and Leonard to include more than one individual can auction off items as taught by Barzilai. The motivation to combine is the same as claim 134, above.

As per claim 142-144, the examiner notes the limitation of claim 142-144 is substantially similar to that of claim 138, 139 and 141, and thus is rejected under similar grounds.

Art Unit: 3627

6. Claim 135 rejected under 35 U.S.C. 103(a) as being unpatentable over Mossberg United States Patent 5,803,500 in view of Godin et al. United States Patent 6,255,652 (hereinafter Godin) and Leonard et al. United States Patent 5,903,874 (hereinafter Leonard) as applied to claim 133 above, and further in view of Examiner's Official Notice.

As per claim 135, The examiner notes that Mossberg is silent with respect to gift certificate is valid during a non-peak demand period to reduce excess capacity.

Leonard discloses a coupon that provides a discount from a predetermined price during non-peak hours (Leonard, see col. 5, lines 47-60; Examiner interprets a coupon to be analogous to a certificate).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Mossberg to include a coupon that provides a discount from a predetermined price during non-peak hours as taught by Leonard. One of ordinary skill in the art would have been motivated to modify the references in order to provide an incentive for customers to utilize a service during off-peak hours.

The examiner notes that the combination of Mossberg, Godin, and Leonard teach the limitations of the invention however the combination is silent with respect to validity of reducing capacity during peak hours.

However, businesses have non-peak demand periods and only except coupons during the non-peak demand periods in order to reduce capacity during peak times in which full price is required. This helps increase revenue during peak-times.

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Mossberg, Godin, and Leonard to include have non-peak demand periods and only except coupons during the non-peak demand periods in order to reduce capacity during peak times in which full price is required. One of ordinary skill in the art would have been motivated to do so in order to help increase revenue during peak-time periods.

7. Claim 147-148 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mossberg United States Patent 5,803,500 in view of Godin et al. United States Patent 6,255,652 (hereinafter Godin) and Leonard et al. United States Patent 5,903,874

Art Unit: 3627

(hereinafter Leonard) as applied to claim 133 above, and further in view of Examiner's Official Notice.

As per claim 147-148, The examiner notes that the combination of Mossberg, Godin, and Leonard teach the limitations of the invention however the combination is silent with respect including demographic information during registration.

However, many websites require user's to input demographic information during registration in order to better tailor to user's needs. This helps by maximizing the user's experience based on the collected data.

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Mossberg, Godin, and Leonard to include having a user input demographic information during registration as taught by Examiners Official Notice. One of ordinary skill in the art would have been motivated to do so in order to maximize the user's experience based on the collected data.

Art Unit: 3627

4. Claims 149-153 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mossberg United States Patent 5,803,500 in view of Godin et al. United States Patent 6,255,652 (hereinafter Godin) and Leonard et al. United States Patent 5,903,874 (hereinafter Leonard) and further in view of Shear et al. United States Patent 6,112,181 (hereinafter Shear).

As per claim 149, The examiner notes that the combination of Mossberg, Godin, and Leonard teach the limitations of the invention however the combination is silent with respect a restaurant search module.

Shear discloses a restaurant search module (Shear, see at least, Abstract and col. 8, lines 66-67 and col. 9, lines 1-26).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Mossberg, Godin, and Leonard to include a restaurant search module as taught by Shear. One of ordinary skill in the art would have been motivated to combine the teachings in order to help you find the items you are looking for quickly and easily (Shear, see at least, col. 3, lines 20-31).

As per claim 150, The examiner notes that the combination of Mossberg, Godin, and Leonard teach the limitations of the invention however the combination is silent with respect a restaurant search module including an interactive guide.

Shear discloses a restaurant search module including an interactive guide (Shear, see at least, Abstract and col. 8, lines 66-67 and col. 9, lines 1-26).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Mossberg, Godin, and Leonard to include a restaurant search module including an interactive guide as taught by Shear. The motivation to combine is the same as claim 149, above.

As per claim 151-152, The examiner notes that the combination of Mossberg, Godin, and Leonard teach the limitations of the invention however the combination is silent with respect to listing restaurants based on desired cuisine, zip code, or other geographic area parameters or other search parameters.

Shear discloses listing restaurants based on desired cuisine (Shear, see at least, Abstract and col. 8, lines 66-67 and col. 9, lines 1-26).

Art Unit: 3627

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Mossberg, Godin, and Leonard to include a listing restaurants based on desired cuisine, as taught by Shear. The motivation to combine is the same as claim 149, above.

As per claim 153, The examiner notes that the combination of Mossberg, Godin, and Leonard teach the limitations of the invention as per claim 133, and further Shear teaches the restaurant search module and listing module as per claims 149-152.

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Mossberg, Godin, and Leonard to restaurant search module and listing module as taught by Shear. The motivation to combine is the same as claim 149, above.

Response to Arguments

8. Applicant's arguments with respect to claims 133-153 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 3627

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asfand M. Sheikh whose telephone number is (571) 272-1466. The examiner can normally be reached on M-F 8a-4:30p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan M. Zeender can be reached on (571) 272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3627

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Asfand M Sheikh
Examiner
Art Unit 3627

ams
18-Jan-07

 1/22/07
F. RYAN ZEENDER
PRIMARY EXAMINER